



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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### ADMINISTRATOR'S MEMORANDUM

TO: Bureau Chiefs, Regional Supervisors

FROM: Norm Young *Norm C Young*

DATE: March 3, 1980

RE: Subordination of Water Rights for Power Purposes

Problems and questions have recently risen relative to existing water rights for power production purposes preventing or hindering later-in-time use of water for agricultural and other beneficial uses. Some direction and decision relative to this matter likely will be forthcoming in the pending Idaho Power Lawsuit.

The Department has in the past, issued some permits for power purposes conditioned with the following language: "This project shall be operated in a manner that will not conflict or interfere with the future upstream diversion of water for irrigation or other beneficial consumptive uses." This language essentially "subordinates" a water use for power to other future uses of the water.

In view of the pending law suit and the policies described in the State Water Plan, the following language shall be shown on all future permits and licenses for power production purposes except for the exceptions noted below.

"This permit (license) shall be subject to future operation so that use of water under this permit (license) will not conflict or interfere with the future upstream diversion of water for irrigation or other beneficial consumptive uses or with future instream flows authorized by state law."

Exceptions are that single family power production applications or applications for power production in a remote non-competitive area such as the primitive area do not need to be so conditioned.

#### SUBORDINATION PROVISION

If this [permit] [license] is for hydropower purposes, the rights for the use of water [acquired under this permit] [confirmed in this license] shall be junior and subordinate to all rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this [permit] [license] and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this [permit] [license].